

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 12th day of October 2000.

Original Application no. 616 of 1992.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Dayal, A.M.

Kaloo Ram, S/o Gauri Shanker,
R/o 122/152, Bhusaulitoia, Khuldabad,
Allahabad, working as Electric Engin.
Driver, N. Rly., Allahabad.

.. Applicant

C/A Shri B. Tiwari

Versus

1. Sr. Divisional Electrical Engineer,
Rolling Stock Operation, N. Rly.,
Allahabad.
2. Divisional Railway Manager, N. Rly.,
Allahabad.
3. Chairman Railway Board., Rail Bhawan,
New Delhi.
4. Union of India, through Secretary, Ministry
of Railways, New Delhi.

.. Respondents

C/Rs Sri D.C. Saxena

...2/-

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O R D E R (Oral)

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

This OA under section 19 of the Administrative Tribunals Act, 1985 has been filed for direction to the respondents to calculate gratuity on the basis of last pay drawn by the applicant which was Rs. 750/- per month. It is stated that the gratuity has been wrongly calculated on the basis of amount of Rs. 675/- p.m.. Applicant has also prayed that the respondents be directed to pay arrears on revised pension and further the retiral benefits which he was to receive on retirement be paid to him with interest.

2. Applicant Shri Kalloo Ram was serving as Electric Engin Driver Gr. A (Spl.) in N. Railway. He retired from service on 31.07.85. It appears that the applicant was declared dead on account of misinformation on 14.2.85.. The matter was ultimately referred to General Manager, who after inquiry declared the applicant alive on 9.7.90. However, after this declaration, the retiral benefits were not paid to him. The applicant in para 8 (VII) of the OA has stated that the total amount of Rs. 1,95,000/- is still lying with the respondents unclaimed and unpaid. It has not been paid to the applicant inspite of several requests.

3. We have heard Shri B. Tiwari learned counsel for the applicant & Shri D.C. Saxena learned counsel for the respondents.

...3/-

4. The crucial paragraph 4 (VI) and 4 (VII) of the OA have been ^srelied very vaguely. The applicant's claim is that on the date of retirement he was drawing basic pay of Rs. 750/- per^s month. Thus he was entitled for the calculation of the amount of gratuity and pension on last pay drawn. This fact has not been denied in para 6 of the CA. In respect of the claim raised in para 4 (VII) only it is much has been stated that 'no comments are offered for want of information.' Nowhere it has been asserted that the entire retiral benefits have been paid to the applicant. The applicant retired in 1985, 15 years have passed. From the record we do not find any justification on the part of the respondents to with^{hold}~~draw~~ the amount after General Manager declared the applicant alive on 09.07.90. This fact has not been denied in the CA. In the circumstances we are of the opinion that the applicant is entitled for the relief claimed in the OA.

5. Learned counsel for the applicant has further submitted that for this unjustified ^sharm^sment, he is entitled for compensation and respondents may be directed to pay the amount with interest. Reliance has been placed on the judgment of Hon'ble Supreme Court in the case of R. Kapoor Vs. Director of Inspections (Painting & Publication) Income Tax & others (1995) SCC (L&S) 13. Hon'ble Supreme Court ^srely^s~~rely~~ on its judgment, in State of Kerala Vs. M. Padmanabhan Nair, (1985) 1 SCC 429, ^{wherein it was said} that Pension and Gratuity are no longer bounty to be distributed by the Govt. to its employee on their retirement but have become, under the decision of this court, valuable rights

and property in their hands and any culpable delay in settlement and disbursement there-of must be vested with the penalty of payment of interest at the current market rate till actual payment. Hon'ble Supreme Court, on the facts and circumstances of the case, in the case of R. Kapoor (Supra) awarded 18% interest. Shri D.C. Saxena, learned counsel for the respondents on the other hand submitted that as the amount is lying unclaimed in the account office, the Railway Administration cannot be blamed for the delay. Learned counsel has also submitted that the reasonable rate of interest may be awarded in the facts and circumstances of the case.

6. Keeping in view the facts and circumstances, we allow this OA. Respondents are directed to calculate the amount of gratuity and pension on the basis of basic pay of Rs. 750/- per month, which was paid to the applicant on the date of retirement and the arrears shall be paid to the applicant within 6 months. However, he will not be paid interest on this amount. For the remaining amount of Rs. 1,97,000/-, it shall be paid to the applicant without delay within 3 months from the date of copy of this order is served. However, if any amount has been paid during this period, it shall be deducted on the net amount paid. The interest shall be paid @ 12% p.a. from the date 09.07.90. It is further made clear that the amount of Rs. 1,97,000/- ~~has~~ been mentioned in the ~~order~~ order on the basis of averment made in the O.A. as no other amount




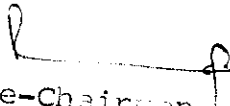
...5/-

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has been mentioned in the CA. However, this figure shall be subject to correction.

7. There shall be no order as to costs.


Member-A


Vice-Chairman

/pc/